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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/567,409	05/17/2008	George Gustaaf Veldhoen	2003-1012	4200

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YOUNG & THOMPSON
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Alexandria, VA 22314

EXAMINER

JOHNSON, PHILIP T

ART UNIT	PAPER NUMBER
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4157

NOTIFICATION DATE	DELIVERY MODE
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02/16/2011

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

DocketingDept@young-thompson.com

Office Action Summary	Application No. 10/567,409	Applicant(s) VELDHOEN, GEORGE GUSTAAF	
	Examiner P. TYLER JOHNSON	Art Unit 4157	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 May 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☒ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>6 Feb 2008</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Priority

Acknowledgment is made of applicant's claim for foreign priority based on an application filed in the Netherlands on 6 August, 2003. It is noted, however, that applicant has not filed a certified copy of the Netherlands 1024057 application as required by 35 U.S.C. 119(b).

Claim Objections

Claim 2 is objected to because of the following informalities: "the rigid projection" lacks sufficient antecedent basis.

Claim 4 is objected to because of the following informalities: "the rigid edge" lacks sufficient antecedent basis.

Claim 9 is objected to because of the following informalities: "the pre-tensioning means" lacks sufficient antecedent basis.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Modrey (2,882,579).

The examiner notes that statements placed in brackets are considered to be functional in nature. These statements of intended use fail to further limit the structure of the claimed invention. Prior art used in claim rejections must show the claimed structure, but the prior art need only be *capable of performing the functional recitations* contained in the intended use statements. It is well established that intended use statements do not differentiate the claimed invention over prior art which otherwise satisfies the claimed structural limitations. *Ex parte Masham*, 2 USPQ2d 1647 (1987). The claims are replete with functional or intended use language. The structure which goes to make up the device must be clearly and positively specified.

Regarding claim 1, Modrey discloses a fastening device, comprising a first element (51) [that in use is attached to a substrate] and a second element (10-15) [that, for the purpose of attaching an object to the substrate, can be engaged to interlock with, while remaining capable of being disengaged from, the first element by means of its projection that projects into the first element and that grips behind a catching edge of the first element by means of a gripping edge]. It is the examiner's position that the first element is capable of being attached to a substrate, and that first and second elements are capable of being attached as recited. See fig. 6; col. 5, lines 54-63.

Regarding claim 2, Modrey discloses the device according to claim 1, in which the first and second elements are connected [in such a manner that the one element must first be displaced sideways or tilted relative to the other element, after which the rigid projection can be removed from the first element]. Modrey discloses connection of the two elements in at least figure 6. Further, removal of the projection of the second

element from the first element can be achieved by displacement, as recited in the functional language. See col. 5, lines 64-73.

Regarding claim 3, Modrey discloses the device according to claim 1, with means of passage (16) [to remove the projection from the first element, for example in which the projection is adapted to be reduced in girth], as this limitation is best understood by the examiner. Housing part 16 provides a space in which the slide 12 of the second element is housed, and where it passes upon removal from the first element. See col. 3, lines 30-41: "The slide assembly is disposed slidable within the housing". It is the examiner's position that the housing satisfies the limitation of a means of passage.

Regarding claim 4, Modrey discloses the device according to claim 1, in which the first element (51) has an aperture (52), behind the rigid edge of which the gripping edge grips. See col. 5, lines 29-30: "51 designates the support frame in which the receiver opening 52 is provided." The gripping edge of the second element grips the rigid edge of the first element. See fig. 6; col. 5, lines 46-63: "Fig. 6 shows the completed locking operation...Clamping head 11 (gripping edge 11') now occupies a position underlying the rim (rigid edge) of the receiver opening and the locking slide 12 occupies a position within the receiver opening alongside the clamping head."

Regarding claim 5, Modrey discloses the device according to claim 1, in which the projection contains at least two members (11, 12) [that can be axially displaced relative to each other in order to reduce the girth of the projection]. Modrey discloses displacement of the two members of the projection in at least figures 5-7. See col. 4, lines 7-27 (describing relative axial displacement of clamping head (11) and locking

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slide (12): "When the clamping head of a coupler has passed completely through the receiver opening – the thickness of the panel being such as to fit the fixed distance d – space becomes available in the receiver opening for the locking slide which is snapped by the action of the tensioned spring 20 into the receiver opening thereby locking the clamping head in a position in which its edge 11' overhanging the clamping rod underlies the rim of the receiver opening.")

Regarding claim 6, Modrey discloses the device according to claim 1, in which the second element comprises two mutually attached, [for example slotted or hinged together], parts (14, 16) [that are mainly axially displaced relative to each other]. The release member (14) and the housing part (16) are mutually attached. It appears that they are attached in a slotted manner, although the recitation "for example" does not set forth a positive limitation of structure. Further, it is the examiner's position that the parts (14, 16) are capable of being axially displaced as recited. See e.g. figs. 5-7.

Regarding claim 7, Modrey discloses the device according to claim 1, in which the second element comprises a hand grip (14) [with which the means of passage can be operated, for example in which one member is displaced relative to the other member]. See col. 5, lines 64-73: "When it is now desired to release the couplers, the operator reaches again into the cell or bladder and grips release knob 14 by squeezing the pliable wall material over knob 14 and toward stem 13 and then pulls back the release knob thereby withdrawing the locking slide from the receiver opening."

Regarding claim 8, Modrey discloses the device according to claim 1, in which the gripping edge (11') is located on one side of the projection or on one member. See e.g. fig. 1.

Regarding claim 9, Modrey discloses the device according to claim 1, in which the second element comprises a button (13, 14) [that can be manually moved upwards against the pre-tensioning means (20)] and that carries with it a locking part (12) and has a pressure face (16, 16') [with which the second element can be pressed onto the first element while the button is kept free]. It is the examiner's position that the button of Modrey is capable of moving upwards against the pre-tensioning means, as shown in at least figure 7. As best understood by the examiner, Modrey discloses a locking part by way of feature 12, which locks the device in place after the gripping edge has fully entered the receiver opening (aperture). Further, Modrey discloses both a housing (16) and a flange (16'), either of which would satisfy the recitation of a pressure face; both of these features are capable of being used to press the second element onto the first element as recited in the functional language.

Regarding claim 10, Modrey discloses the device according to claim 1, in which the second element comprises a fastening device or clamping device (50) [for the purpose of permanently affixing the object to the second element]. See col. 5, lines 27-41: "Cover 53 (object to be affixed) may be secured directly to wall 50". It is the examiner's position that the securing action in Modrey is capable of permanently affixing the object (53) to the second element (51).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to P. TYLER JOHNSON at 571-270-7293. The examiner can normally be reached from 8 AM TO 6 PM, MONDAY THROUGH THURSDAY.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, VICTOR BATSON can be reached at 571-272-6987. The fax number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/VICTOR BATSON/
Supervisory Patent Examiner, Art Unit 4157

/P. T. J./
Examiner, Art Unit 4157